

DIRECTIVE

WELFARE-TO-WORK

Number: WD99-9

Date: September 21, 1999
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TO: SERVICE DELIVERY AREA ADMINISTRATORS
PRIVATE INDUSTRY COUNCIL CHAIRPERSONS
WELFARE-TO-WORK 15 PERCENT SUBGRANTEES
DOL WELFARE-TO-WORK 25 PERCENT SUBGRANTEES
COUNTY WELFARE DEPARTMENT DIRECTORS
CALIFORNIA DEPARTMENT OF SOCIAL SERVICES
EDD EXECUTIVE STAFF
WORKFORCE DEVELOPMENT BRANCH STAFF

SUBJECT: AUDIT RESOLUTION

EXECUTIVE SUMMARY:

Purpose:

This directive transmits the policy and procedures for the resolution of audit findings and disallowed costs.

Scope:

This directive applies to all entities receiving Welfare-to-Work (WtW) grant funds. These entities include Service Delivery Areas (SDA) that receive formula funds and their subrecipients, and 15 Percent subgrantees and their subgrantees.

Effective Date:

This directive is effective immediately.

REFERENCES:

- Title 20 Code of Federal Regulations (CFR) Sections 645.230(b) and 645.250
- Title 29 CFR Section 95.26
- Title 29 CFR Section 96.503
- Title 29 CFR Section 97.26
- Office of Management and Budget (OMB) Circular A-133, Subject: Audits of States, Local Governments and Non-Profit Organizations (June 24, 1997)
- Department of Labor (DOL) Technical Assistance and Training (TAG) Series for JTPA Financial Management (1995)
- DOL Welfare-to-Work Financial Management Technical Assistance Guide (1999)

STATE-IMPOSED REQUIREMENTS:

This directive contains some state-imposed requirements. These requirements are indicated by ***bold, italic*** type.

FILING INSTRUCTIONS:

This directive finalizes Draft Directive WDD-11, issued for comment on July 28, 1999. Retain this directive until further notice.

BACKGROUND:

The subrecipients and grantees of WtW funds are required to meet the audit requirements of OMB Circular A-133. Audit findings must be resolved by the awarding entity. The WtW Interim Regulations Section 645.250 requires that the State use the audit resolution procedures that it uses for other federal grant programs. The State will use the procedures established for the Job Training Partnership Act (JTPA). The procedures apply to state resolution of subrecipient and grantee audits and to subrecipient resolution of lower-tier subrecipient audits. In addition, the Compliance Review Division (CRD) may use these procedures in resolving findings from other reviews, such as incident and investigation reports, and monitoring. The CRD is responsible for state-level audit resolution and coordination of state-level hearings. Mail should be addressed to:

Attention: Compliance Resolution Unit
Compliance Review Division, MIC 22M
Employment Development Department
P.O. Box 826880
Sacramento, CA 94280-0001

POLICY AND PROCEDURES:

Definitions:

Auditee, as defined in OMB Circular A-133, is a nonfederal entity that expends federal awards that must be audited under the circular.

The DOL JTPA Financial Management TAG provides the following definitions:

Awarding agency means (1) with respect to a grant, DOL; and (2) with respect to a subgrant or contract, the party that awarded the subgrant or contract.

Initial Determination is a preliminary decision on whether to allow or disallow questioned costs and resolve any nonmonetary findings.

Final Determination is the awarding agency's final decision to disallow the cost and the status of nonmonetary findings.

Nonmonetary finding is an administrative finding.

Subrecipient, in this directive, refers to SDAs, lower-tier subrecipients, and subgrantees.

Policy:

Subrecipients that award WtW funds to lower-tier subrecipients must have written audit resolution policies and procedures. ***For subrecipients, audit resolution consists of a three-part process that includes the Initial Determination, informal resolution period, and the Final Determination. Receipt of the Initial and Final Determinations by the auditee must be documented by the awarding agency.***

Procedures:

I. Subrecipient Standards

A. Subrecipients must:

1. Review the audit report of their subrecipients to ensure compliance with the requirements of OMB Circular A-133.
2. ***Establish an audit resolution file to document the disposition of reported questioned costs and corrective actions taken for all findings.***
3. ***Complete a control log.*** (The log must contain the date of the audit, the period covered by the audit, the date that the audit was received, the auditor, the questioned costs, the administrative findings, the date or dates of the Initial and Final Determinations, and documentation of decisions regarding the disallowed costs and administrative findings.)
4. Issue a letter of Initial Determination based on the audit review. The Initial Determination letter includes:
 - A list of all questioned costs;
 - Whether the costs are allowed or disallowed, including the reasons with appropriate citations for such actions;
 - Acceptance or rejection of any corrective action taken to date, including corrective action on administrative findings;
 - Possible sanctions; and
 - The opportunity for informal resolution of no more than 60 days from the date of Initial Determination.
5. During informal resolution, the auditee may provide documentation to support allowability of costs and proposed corrective action of administrative findings. Informal resolution discussions may be held by telephone, if necessary, but in person is preferable. When a meeting is held, provide a sign-in sheet. ***The sign-in sheet must be retained as part of the audit file. The meeting must be documented either with a voice recording or written notes.*** Negotiations of repayments can be initiated at this time.
6. Issue a written Final Determination. The Final Determination includes:
 - Reference to the Initial Determination;
 - Summation of the informal resolution meeting, if held;
 - Decisions regarding the disallowed costs, listing each disallowed cost and noting the reasons for each disallowance;
 - Questioned costs that have been allowed by the awarding agency and the basis for the allowance;
 - Demand for repayment of the disallowed costs;

- Description of the debt collection process and other sanctions that may be imposed if payment is not received;
 - Rights to a hearing; and
 - The status of each administrative finding.
- B. The audit resolution process must be completed within six months after receipt of the subrecipient's audit report and must ensure that the subrecipient takes appropriate and timely corrective action.
- C. ***The audit file must be assembled for ease of reference in the event of future action. The file must be tabulated with the most current documentation first. The file should include the following:***
- Final Determination and proof of receipt by the subrecipient;
 - Additional documentation submitted as part of the informal resolution process:
 - notes related to the informal resolution;
 - sign-in sheets from any informal resolution meetings;
 - Initial Determination and proof of receipt by the subrecipient;
 - Response to the final audit report; and
 - Final audit report.
- D. ***Subrecipients must establish local-level hearing procedures. The awarding agency must reserve the right to overturn a hearing officer's decision when it determines that noncompliance with the applicable act or its regulations still exists.***

The hearing allows both parties the right to present either written or oral testimony, call and question witnesses in support of their position, present oral and written arguments, examine records and documents relevant to the issues, and be represented. ***The hearing shall be recorded mechanically or by court reporter.***

The auditee has 21 calendar days after the Final Determination is issued to submit a written request for a hearing. At least 10 calendar days before the hearing, written notice of the date and site of the hearing must be provided to the auditee. The 10-day notice may be shortened with written consent of both parties. The auditee may withdraw the hearing request; ***the withdrawal request must be submitted in writing.***

A decision must be issued by the hearing officer within 60 days of the request filing date.

An auditee has 10 days from receipt of the adverse decision to file an appeal of the local hearing officer's adverse decision to the State Review Panel. If a local hearing is not held or the decision is not rendered timely, the auditee has 15 days from the date on which the hearing should have been held or the decision should have been issued to file an appeal with the State Review Panel.

- E. ***If the auditee appeals the decision of the awarding agency's hearing officer to the State, the awarding agency will send CRD the complete audit for review by the State Review Panel.*** Within 30 days of receipt by the CRD of the auditee's written appeal, the State Review Panel will be convened to review all evidence and issue a decision based on the evidence without consideration of any imposed sanctions.

There is no administrative appeal beyond this level.

- F. ***The awarding agency shall ensure correction of any unresolved administrative findings.*** The awarding agency should determine the status of the unresolved administrative findings through its monitoring process and determine that appropriate corrective action has been taken. ***A copy of the monitoring report substantiating the implementation of the appropriate corrective action must be filed with the audit report.***

II. State Audit Resolution

- A. If there are no audit findings, the CRD will notify the auditee that no further action will be taken regarding the audit.
- B. If the audit identifies an administrative finding, questioned costs, or cost recommended for disallowance, the CRD will:
- Establish an audit resolution file to document the disposition of each finding and the corrective action taken to resolve each finding.
 - Issue a written notice of Initial Determination after the audit is reviewed.
 - Provide the auditee an opportunity for informal resolution and submission of additional documents within 60 days from the date of the notice of Initial Determination to resolve questioned costs and/or administrative findings.
 - Issue a written notice of Final Determination.

III. State Hearings

All appeals of state audit determinations, including amendments and withdrawals, shall be in writing. Requests for hearing must be made within 15 days from the date of the Final Determination.

The state hearing officer will provide written notice to the concerned parties of the date, time, and place of the hearing at least 10 calendar days before the scheduled hearing. Both parties will have the opportunity to present oral and written testimony, call and question witnesses in support of their position, present oral and written arguments, examine records and documents relevant to the issue(s), and be represented. The state hearing officer will prepare a proposed decision and submit it to the Employment Development Department (EDD) Director or designee. The EDD reserves the right to overturn the decision of the hearing officer.

There is no administrative appeal beyond this level.

IV. Stand-In Costs

During the audit resolution process, the auditee may propose the use of stand-in costs to substitute for the disallowed costs. To be considered, stand-in costs must be incurred for allowable WtW costs that were reported as uncharged WtW program costs, included within the scope of the audit, and accounted for in the auditee's financial system. The stand-in cost must have been expended in support of the same title and program year as the costs they propose to replace, and the costs must not cause a violation of the cost limitations and requirements. Stand-in costs must be actual expenses paid with nonfederal funds. Cash match in excess of the required match may also be considered for use as stand-in costs.

ACTION:

Bring this directive to the attention of all affected staff and subrecipients.

INQUIRIES:

Please direct inquiries about this directive to your program manager at (916) 654-7799 or Jean Cole of the Policy Unit at (916) 654-8284.

/S/ BILL BURKE

Assistant Deputy Director